

EXECUTIVE SUMMARY

Section 180(c) Policy and Procedures

This package describes the Section 180(c) Policy and Procedures that the Office of Civilian Radioactive Waste Management (OCRWM) Office of National Transportation (ONT) staff recommends to Department of Energy (DOE) management. This package concludes eighteen months of intensive cooperative work by several stakeholder groups and OCRWM staff.

There are three parts to this package: (1) the Executive Summary; (2) two Federal Register Notices -- the Draft Section 180(c) Policy and Procedures and the Draft Grant Application Package; and (3) the Appendices.

Background

Section 180(c) of the Nuclear Waste Policy Act requires DOE to “provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under Subtitle A or under Subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations.”

Section 180(c) was inserted into the Nuclear Waste Policy Act when it was amended in 1987. The Department began discussions with stakeholders and based on these discussions published two documents in 1992, the *Draft Strategy for OCRWM to Provide Training Assistance to State, Tribal and Local Governments* and the *Draft Options for Providing Technical Assistance and Funding Under Section 180(c) of the Nuclear Waste Policy Act*.

In 1995, discussions began again when OCRWM published the first of five *Federal Register* Notices on Section 180(c) implementation and policy options. OCRWM solicited comments from the public and, on April 30, 1998, published a *Notice of Revised Proposed Policy and Procedures*. Section 180(c) has also been discussed in many Transportation External Coordination Working Group (TEC) meetings and in meetings with the State Regional Groups with whom we have cooperative agreements.

By 2004, several events made it timely to revisit the *1998 Proposed Policy and Procedures*, including the President’s recommendation of Yucca Mountain, Nevada as the nation’s repository, changes in homeland security, and changes to DOE’s transportation practices. Consistent with ONT’s 2002 *Strategic Plan*, OCRWM formed a TEC Topic Group to engage stakeholders in analyzing the options for and making recommendations to DOE management on Section 180(c) implementation.

Since July 2004, the topic group has been meeting in person and through conference calls to develop recommendations, which derive from their detailed analysis of the issues

(attached). The topic group roster (attached) includes representatives from the four State Regional Groups, the Federal Railroad Administration, International Association of Emergency Managers, Illinois Fire Chiefs Association, National Association of Emergency Medical Technicians, the Confederated Tribes of the Umatilla Indian Reservation, and the Oneida Nation.

Policy Discussion

The policy recommended in this management review package has changed from the *1998 Policy and Procedures* in that it is less prescriptive. The current approach borrows heavily from the U.S. Department of Transportation's Hazardous Materials Emergency Preparedness Program (HMEP). The policy describes the structure of the grant program and the program's goals and then gives states and tribes discretion in their use of funds as long as they meet Section 180(c) program requirements. The changes in approach came mainly from Topic Group recommendations.

The Topic Group tried to identify critical issues related to Section 180(c), discuss options for addressing each issue, and help DOE understand the implications of each option. The Topic Group strived for consensus on issues but did not always achieve it.

To assist the discussion, DOE prepared a discussion paper for each issue that explained the history of the issue, identified legal requirements, and outlined the options considered (see the Appendices for the final versions of each of these discussion papers). In some cases, the topic group members worked cooperatively – independent from the group itself – to try to reach agreement on the issues.

Since July 2004, the topic group has reached consensus on the following issues:

- Funding distribution method
- Timing and eligibility
- Allowable activities/Training, including discussion of hospital personnel and equipment
- Definitions
- Pass-through requirements
- Contingency plans
- Promulgating rules on 180(c) implementation
- Matching Funds

The issues in which the topic group could not reach consensus are:

- Funding allocation
- State fees
- How to fund operational activities (not training related)

Although, the Topic Group discussions focused primarily on the concerns of state and local governments, two tribes participated in the Topic Group. Tribal issues related to Section 180(c) will also be considered in the Tribal Topic Group and through OCRWM formal consultations with the tribes beginning in 2005.

Conclusion

This document presents OCRWM ONT staff's recommendations on Section 180(c) policy to OCRWM management for their review and approval. The recommendations herein reflect the many months, and in some cases years of work by stakeholders, the TEC Topic Group on 180(c), and DOE staff.